

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

NORTH AMERICAN SAVINGS BANK, F.S.B.,
Plaintiff,

v.

PATRICK NELSON AND BRIAN NELSON,
Defendants.

Case No. 3:21cv184-GHD-RP

BRIAN NELSON,
Cross-Complainant,

v.

PATRICK NELSON,
Cross-Defendant.

ORDER GRANTING UNOPPOSED MOTION FOR APPELLATE ATTORNEY FEES AND EXPENSES

Presently before the Court is the Plaintiff's unopposed motion for appellate attorney fees and expenses [129]. Upon due consideration, the Court finds the motion should be granted.

On May 31, 2023, the Court entered judgment in this matter in favor of the Plaintiff in the amount of \$5,669,518.86 plus post-judgment interest and costs [115]; the Court subsequently entered an order granting the Plaintiff's motion for attorneys' fees incurred through the date of the judgment [126]. The Defendant Patrick Nelson appealed the Court's May 31, 2023, judgment to the Fifth Circuit Court of Appeals [120]. On June 4, 2024, the Fifth Circuit affirmed this Court's judgment. *North American Savings Bank, F.S.B. v. Nelson*, 103 F.4th 1088 (5th Cir. 2024). The Plaintiff now moves, unopposed, for an award of attorneys' fees in the amount of \$35,720.50, an award of expenses in the amount of \$1,577.45, and an award of costs in the amount of \$29.40, all incurred since May

31, 2023, in the appeal of this matter.

As the Court noted in its previous Order awarding attorneys' fees in this matter [126], the parties' Indemnity and Guaranty Agreement, Loan Agreement, and Deed of Trust all entitle the Plaintiff to attorneys' fees and costs in the event that the Plaintiff is required to retain services of an attorney to enforce the agreement [126, at pp. 2-3]. To defend the Court's judgment on appeal, the Plaintiff was required to retain an attorney. The Plaintiff has further submitted itemized invoices outlining the fees incurred while this matter was on appeal, and the Court finds that the hourly rates charged and the total amount of requested fees and expenses are reasonable. Further, the total amount of fees awarded in this matter, including those that shall be awarded by this Order, are less than five percent of the judgment awarded to the Plaintiff, which is well within the presumption of a reasonable award. *Regions Bank v. Victory Pipeline*, No. 3:20-CV-503, 2021 WL 5053480, at *4-5 (S.D. Miss. Sept. 21, 2021); *Estate of Baxter v. Shaw Assocs., Inc.*, 797 So. 2d 396, 407 (Miss. Ct. App. 2001); Miss. Code Ann. § 9-1-41. Accordingly, the Court shall grant the Plaintiff's motion and award attorneys' fees and costs in the amount requested.

THEREFORE, it is hereby ORDERED that the Plaintiff's unopposed motion for appellate attorney fees and expenses [129] is GRANTED; the Plaintiff is awarded attorneys' fees in the amount of \$35,720.50, expenses in the amount of \$1,577.45, and costs in the amount of \$29.40.

SO ORDERED, on this the 1st day of October, 2024.



SENIOR U.S. DISTRICT JUDGE